

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

CHARLES H. SPINK
and
LAURA E. SPINK

Claim No. CU-8394

Decision No. CU 5394

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by CHARLES H. SPINK for \$1,500.00 based upon the asserted ownership and loss of certain real property in the Isle of Pines, Cuba. Claimant, CHARLES H. SPINK, has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949, as amended [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term "property" means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The Commission's Regulations provide that claims under Title V of the Act (Cuban claims) shall be filed with the Commission on or before May 1, 1967, (FCSC Reg., 45 C.F.R. Sec. 531.1(d) (Supp. 1967)); and further that any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (Reg., Sec. 531.1(g).)

No claim was filed with this Commission by or on behalf of claimants within the allowable period for timely filing of such claims, nor does the Commission have any record of any communication concerning the asserted loss.

The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.) This is such a claim.

The record discloses that LAURA E. SPINK, the wife of CHARLES H. SPINK, has been a national of the United States since birth. Pursuant to the community property law of Cuba, she had an interest in property acquired by her husband in Cuba subsequent to their marriage. Accordingly, LAURA E. SPINK is joined as claimant in this matter.

Claimant, CHARLES H. SPINK, states that he lost two parcels of land in the Santa Fe section of the Isle of Pines, and computes his loss as follows:

Original Cost	\$ 540.00
Increased Valuation	800.00
Taxes and Other Costs	<u>\$ 160.00</u>
	\$1,500.00

Based upon the entire record, including a deed covering these two parcels of land, a tax receipt dated October 30, 1959, and a registration certificate, the Commission finds that claimants owned a ten-acre lot in the rural section and a 1783-square meter lot in the urban section of Santa Fe.

On December 6, 1961, the Cuban Government published its Law 989 which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. The record indicates that claimant was then a resident of the United States.

The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The record includes, in support of the claimed values, the aforementioned deed which describes one parcel of land as located in the "El Hospital" tract near Santa Fe, measuring about 10 acres or 40,680 square meters; and the other parcel as located in the town of Santa Fe, measuring about 1,783 square meters, purchased in 1921 for \$540.00.

On the basis of the evidence of record and evidence available to the Commission regarding the value of similar properties in Santa Fe about the date of loss, the Commission finds that on December 6, 1961, the two parcels of land subject of this claim had a total value of \$2,088.00.

The Commission, therefore, concludes that claimants suffered a loss in this amount within the meaning of Title V of the Act as a result of the taking of this property by the Government of Cuba.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimants. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimants as the extent thereof.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant claim it is so ordered.

CERTIFICATIONS OF LOSS

The Commission certifies that CHARLES H. SPINK suffered a loss as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Forty-four Dollars (\$1,044.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

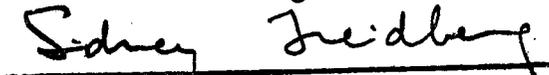
The Commission certifies that LAURA E. SPINK suffered a loss as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Forty-four Dollars (\$1,044.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

JUL 29 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. §531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)